Colorado Department of Local Affairs

TWENTY- NINTH ANNUAL REPORT - 2005

LOCAL GOVERNMENT ENERGY AND MINERAL IMPACT ASSISTANCE PROGRAM

Governor Bill Owens
State of Colorado

Barbara Kirkmeyer
Executive Director
Colorado Department of Local Affairs
January 2006

Colorado Department of Local Affairs

"Strengthening Colorado Communities"

Pictured on the cover – projects funded by Energy and Mineral Impact Assistance Funds:

1	**2**
3	**4**

1. *Mesa County Courthouse*
2. *Glenwood Springs Recreation Center*
3. *Animas River Bridge project*
4. *Garfield County Learning Opportunities Center*

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Introduction

This Twenty-Ninth Annual Report of Expenditures from the Local Government Severance Tax Fund and the Local Government Mineral Impact Fund is submitted to the General Assembly pursuant to C.R.S. 39-29-110(3) and 34-63-102(5)©. Recognizing the fundamental similarity between the criteria for distribution of these funds and in order to minimize administrative costs, the Department of Local Affairs administers the distribution of funds from these two sources in a combined manner through the Local Government Energy and Mineral Impact Assistance Program.

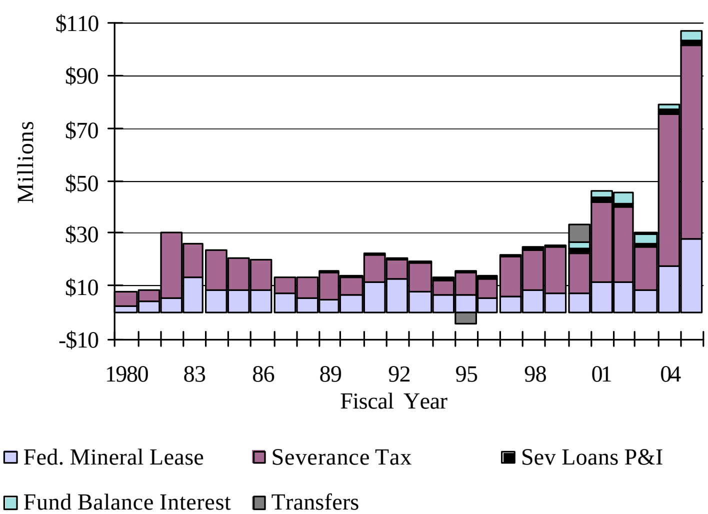
Summary of 2005 Accomplishments

The largest distribution of funds through the Energy and Mineral Impact Assistance program occurs in the form of discretionary grants and loans to municipalities, counties and other political subdivisions socially or economically impacted by the development, processing or energy conversion of minerals and mineral fuels. In 2005, nearly $129 million in grants and loans were awarded to grantees for 434 local public facility and services projects. These investments leveraged more than $356 million in local and other funds and positively affected the lives of state citizens who enjoyed the benefits of the community-based projects supported with grant funds. Additionally, more than $11.4 million was directly distributed to municipalities and counties based on the number of production employees residing within their jurisdictions.

2005 Revenues

Fiscal Year 2005 revenues to the combined local government energy and mineral impact assistance program rose significantly due to continued robust severance tax payments and increased federal mineral lease payments from natural gas production and price increases.

TOTAL IMPACT FUND REVENUE
Severance & Federal Mineral Lease



As shown in the graph (left), revenues have varied widely with the cycles of mineral production in the state. These cycles are expected to continue.

The current value of the loan portfolio is $28,139,141, and consists of 148 active loans totaling $18,879,900. Since the water and sewer loan program was authorized by statute in 1985, a total of 296 loans have been made, with 148 loans being fully repaid. There have been no defaults in the history of the loan program.

2005 Project Highlights

In 2005, DOLA continued to respond to local governments' priority needs. Projects, as usual, ranged in size, scope and type as would be expected in a state as diverse as Colorado. Needs continue in the areas of public facilities, public safety, and basic water and sewer infrastructure to meet the constantly changing requirements of federal and state regulation. Road reconstruction continued to be a high priority in those areas of the state most impacted by oil and gas exploration and development activity. Forty-five (45) road and bridge equipment and construction projects were funded for a total of $30.8 million. These include more than $16 million in awards to Garfield, Gunnison, Las Animas, La Plata, Mesa, Moffat, Routt, San Miguel, Washington, Weld and Yuma counties.

In 2005, 47 water projects and 37 sewer projects received a combined total of $18.5M. Pictured: Kremmling's raw water supply

Forty-seven (47) water projects totaling nearly $10 million were awarded in 2005 along with 37 wastewater projects totaling $8.7 million. Compliance with EPA and CDPHE wastewater regulations continues to impact local governments.

In 2005, DOLA continued funding the Governor's Rural Health Care Initiative. The initiative, implemented in 2004, supports rural health care projects ranging from a chemotherapy facility in Alamosa to an electronic medical records system in Garfield County. In September a total of 33 applications were received from various local governments throughout the state, with 33 projects funded for hospital, medical clinics, and other health-related improvements. Of those funded, 32 were granted Impact funds totaling more than $10 million and one received state Community Development Block Grant funds totaling $305,000.

Yampa Valley Infusion Chemotherapy Center is one of 33 projects funded as part of the Governor's Rural Health Care Initiative.

Additionally, first-responders, including law enforcement and firefighters statewide, received a boost in their ability to communicate through the state's Digital Trunked Network through grants from the Department of Local Affairs (DOLA). Governor Bill Owens directed the Department to provide funding through the Wireless Interoperability Network (WIN) Initiative to rural communities to build digital trunked radio infrastructure, microwave towers and site equipment. A total of 47 projects received $28.8 million in funding.

2005 Program Activities

The previous summary is only a sample of projects funded by the Energy Impact Assistance Fund in 2005. Details of all 2005 awards are shown in Exhibit A. This exhibit includes descriptions of the energy and mineral impacts in each county and complete descriptions of each project. The listing also includes information on matching funds for each project. Note that grant and loan awards in 2005 totaled over $128,236,051 million and matching funds totaled over $344,181,577 million in projects benefiting Colorado residents.

Pictured: Gunnison Recreational Center ribbon-cutting ceremony.

The Department works closely with local governments to ensure grant and loan activity is conducted in accordance with constitutional provisions related to debt, spending and revenue limitations.

All indications are the economy is recovering, and in fact booming in many of the energy producing areas of the state. Demand is up as evidenced by the record number of applications and awards made during 2005. DOLA's challenge will be to continue the high quality administration of the fund in the face of increasing impacts at a time of reduced staffing.

Direct Distribution

In both the severance tax and federal mineral lease distribution statutes, the Department is responsible for distributing a portion of the funds directly to municipalities and counties based on employee residence reports from mineral producers. The direct distribution summary for Severance Tax is in **Exhibit B**.

A decision to alter the Federal Mineral Lease "third tier" direct distribution to local governments was made as a result of an October 17, 2005, Attorney General's Opinion (AGO) in which Attorney General John Suthers issued guidance on interpreting relevant statues, which differed from the department's past practice. Past practice has been to make "third tier" direct distributions to local governments in the "counties of origin" which contributed to the overflow. These are the counties whose share of funds reached a statutory threshold of $1,200,000. The AGO states these funds should be distributed solely on the number of residents employed in the production of minerals and mineral fuels on facilities on federal lands. The department has determined the federal mineral lease "third tier" direct distribution will not be made until a task force consisting of local county and municipal government representatives has reached a consensus on how resident employees should be counted and reported. It is anticipated this distribution will be made no sooner than August 2006.

Origins of the Program

Throughout its history, Colorado has experienced the booms and busts of energy and mineral production. The fluctuations of international marketplaces for precious and base metals, coal, oil, gas, carbon dioxide, uranium and other radioactive materials, oil shale, helium and other natural resources have profoundly affected Colorado, particularly small, rural communities near the geological resource deposits. Until the Local Government Energy and Mineral Impact Assistance program was created in 1977, few attempts were made to moderate these impacts and to assist the communities affected by cyclical periods of prosperity and decline.

State Severance Tax

In 1977, the General Assembly enacted legislation establishing a state severance tax on certain minerals. In that legislation, the Legislature found "when nonrenewable natural resources are removed from the earth, the value of such resources to the state of Colorado is irretrievably lost." The Legislature declared, severance tax is a means for the state to "recapture a portion of this lost wealth…removed from the soil of this state and sold for private profit" and expressed its intent that "a portion be made available to local governments to offset the impact created by nonrenewable resource development."

Gunnison City Hall's renovation is an example of public facilities in energy-impacted communities that benefit from the Energy and Mineral Impact Assistance Program.

The severance tax legislation called for a portion of revenues from this new tax to be deposited in the Local Government Severance Tax Fund and to be distributed by the Executive Director of the Department of Local Affairs. According to the statute, 15 percent of the severance tax revenue credited to the fund is required to be distributed directly to counties and municipalities on the basis of the relative number of production employees residing in the unincorporated areas of such counties and in the boundaries of unincorporated municipalities. "Eighty-five percent of the funds from the Local Government Severance Tax Fund shall be distributed to those political subdivisions socially or economically impacted" by the development, processing, or energy conversion of mineral and mineral fuels subject to severance taxation. Such funds shall be "used for the planning, construction, and maintenance of public facilities and for the provision of public services."

Federal Mineral Leasing Funds

In 1977, the General Assembly also enacted legislation directing a portion of the state's receipts of federal mineral lease revenues to be deposited in a Local Government Mineral Impact Fund for distribution by the Executive Director of the Department of Local Affairs to "public schools and political subdivisions of the state" impacted by mineral and energy development "for planning, construction and maintenance of public facilities and for public services."

Origins of the Program: Federal Mineral Leasing Funds – cont.
In 1982, the Legislature called for additional federal mineral lease funds to be deposited in the Fund and required a portion to be distributed on the basis of the residence of employees of mineral producers. The statute requires that "priority shall be given to those public schools and political subdivisions socially or economically impacted by the development, processing or energy conversion of fuels and minerals leased under said federal mineral lands leasing act."

State Advisory Committee

The 1977 enabling legislation called for the creation of a state "Energy Impact Assistance Advisory Committee." The statutory purpose of the committee is to "review the existing and potential impact of the development, processing or energy conversion of mineral and fuel resources on various areas of the state, including areas indirectly affected" and to "make…recommendations to the Department of Local Affairs, including, but not limited to:

The State Advisory Committee holds hearings, reviews grant applications and makes recommendations for funding to DOLA's executive director.

- the immediate and projected problems which the local governments are experiencing in providing governmental services;
- those actions deemed reasonably necessary and practicable to assist impacted areas…;
- the extent of local tax effort in solving energy impacted problems; and
- other problems…such as housing and environmental considerations, which have developed as a direct result of energy impact."

By statute, the committee consists of:

- Executive Director, Colorado Department of Local Affairs (Chair)
- Colorado Commissioner of Education
- Executive Director, Colorado Department of Transportation
- Executive Director, Colorado Department of Natural Resources
- Five residents of areas impacted by energy conversion or mineral resource development.

The residents of impacted areas are appointed by and serve at the pleasure of the Governor for terms not exceeding four years. Members are eligible for reappointment. State department directors serving on the Committee may designate agency officials to act in their place.

The vast majority of the funding requests received are reviewed by the advisory committee prior to funds being awarded. Funding decisions are made by the Executive Director of the Department of Local Affairs and generally reflect the recommendations of the committee.

Program Guidelines

Program Guidelines have been written following consultation with local government and industry representatives. The program guidelines include the criteria used in funding decisions. These funding criteria reflect the statutory purposes of the program and incorporate the statutory responsibilities given to the advisory committee. They include:

- The significance of the project as it relates to public health and safety, quality of life, and the enhancement of services to the public.

- The relative extent of impact from energy and mineral development, including bust conditions. The program maintains flexibility to respond to areas throughout the state.

- The relationship of the proposed project to the impact. The maximum grant guideline is $500,000. However, the unique nature of needs in the producing areas of the state is recognized and this suggested maximum can be increased under appropriate circumstances.

- The amount of other funds leveraged including community and energy/mineral industry financial support. Lower amounts of local matching funds may be allowed if mitigating circumstances exist.

- The applicant's fiscal capacity and ability to pay.

- The availability of alternative funding to address the impact situation.

The committee makes recommendations to the Executive Director of the Department of Local Affairs as to whether applications should receive full, partial, or no funding. The Executive Director makes the final funding decisions.

In recognition of the mining industry's contributions to the Energy and Mineral Impact Assistance Fund, department staff will continue to publicize the program including the industry's role by: issuing press releases (including press releases summarizing awards within the various regions); continuing the enhancement of the annual program report (including fuller descriptions of projects); encouraging program signage to be placed at local project sites which indicate the source of funds, attending ground breaking and ribbon cutting ceremonies and other media events and participating in media interviews about the program upon request.

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